

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN VANDELINDER, #208357,

Plaintiff,

v.

CASE NO. 2:10-CV-13111
HONORABLE PAUL D. BORMAN

KENDALL SNOW, et al.,

Defendants.

**ORDER DENYING MOTION FOR A CERTIFICATE OF APPEALABILITY
AND CERTIFYING THAT APPEAL CANNOT BE TAKEN IN GOOD FAITH**

This matter is before the Court on Plaintiff's motion for a certificate of appealability concerning the Court's September 3, 2010 dismissal of his *pro se* civil rights complaint which was brought pursuant to 42 U.S.C. § 1983. The Court concluded that Plaintiff's complaint was duplicative to the complaint filed in *Vandelinder v. Snow, et al.*, No. 2:08-CV-11584 (E.D. Mich. July 31, 2008), which was summarily dismissed by another judge in this district. The Court also noted that Plaintiff had filed a motion for relief from judgment in his prior case, and to the extent that he was seeking to file a new complaint raising the same claims, such action was barred on *res judicata* grounds. Plaintiff now seeks to appeal the dismissal of his duplicative action.

Having reviewed the motion and considered the matter, the Court concludes that an appeal from the Court's dismissal order would be frivolous and cannot be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); *see also McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

Accordingly, the Court **DENIES** Plaintiff's motion for a certificate of appealability and certifies that an appeal cannot be taken in good faith.

IT IS SO ORDERED.

S/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: December 21, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on December 21, 2010.

S/Denise Goodine
Case Manager